IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.2.2005

CORAM:

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

WRIT PETITION Nos.14887 OF 1996,4203 AND 1980 OF 1997

W.P.No.14887 of 1996:

Ikiya nadugal Ambedkar Sangam
rep. by its President
P.Alagappan ... Petitioner

Vs.

The Registrar
Alagappa University
Alagappa Nagar
Karaikudi - 623 004. ... Respondent

W.P.No.4203 of 1997:-

M.Selvam ... Petitioner

Vs.

1. The Alagappa University,
   Karaikudi
   rep. by its Registrar

2. The Vice Chancellor
   Alagappa University
   Karaikudi.

3. Selection Committee (Professor
   Selection), Alagappa University
   Karaikudi, rep. by
   Vice Chancellor.

4. Government of Tamil Nadu
   rep. by its Secretary to Government
   Education Department
   Fort St. George
   Chennai - 600 009.

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5. Government of Tamil Nadu
   rep. by its Secretary to Government
   Adidravidar & Tribal Welfare
   Department,
   Fort St. George,
   Chennai - 600 009. ... Respondents

W.P.No.1980 of 1997:-

T.Vasudevan
Reader
Department of Industrial Chemistry
Alagappa University
Karaikudi 630 003. ...Petitioner

-Vs-

1.The Registrar
  Alagappa University
  Karaikudi.

2.Vice Chancellor
  Alagappa University
  Karaikudi. ... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying for the relief extracted supra.

For petitioner in
W.P.No.14887/96 : Mr.R.Thamaraiselvan

For petitioner in
W.P.No. 4203/97 : Mr.V.Gangatharan

For petitioner in
W.P.No. 1980/97 : Mr.K.M.Vijayan, S.C.
for M/s.La Law

For respondents in
W.P.Nos.14887/96
and 1980 of 1997 : Mrs.D.Geetha

For respondents
1 to 3 in WP.4203/97: Mrs.D.Geetha

For respondents 4 &5 in
W.P.No. 4203/97 : Mr.R.Chandrasekaran,
Govt.Advocate

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COMMON ORDER

Writ Petition No.14887 of 1996 has been filed praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned advertisement/notification No.APPT/3974/96 of the respondent, published in "Employment News" dated 31-8-1996 and quash the same and consequently, direct the respondent to strictly adhere to the Reservation Policy of the Government in the case of SC/ST Candidates recruitment to all posts in the Alagappa University and issue fresh notifications for the vacant posts.

2. Writ Petition No.4203 of 1997 has been filed praying to issue a Writ of Mandamus directing the respondents 1 to 3 herein to select only the candidates belonging to SC/ST community for the post of Professor, Industrial Chemistry in Alagappa University, Karaikudi.

3. Writ Petition No.1980 of 1997 has been filed praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the minutes of the meeting of the respondents-University on its 58th meeting of the Syndicate dated 30-12-1996 inasmuch as it seeks to cancel the resolution No.9 dated 2-2-1991 and quash the same and consequently, direct the first respondent herein to complete the process of selection and appoint the petitioner in accordance with the notification of first respondent in advertisement No. APPT/3974/96 dated 19-8-1996 published in "University News" for the post of Professor in Industrial Chemistry Department in accordance with law, without observing the rule of reservation as found in the notice in tune with the judgment of the Supreme Court reported in AIR 1988 SC 759.

4. For the sake of easy reference and convenience the above Writ Petitions are hereinafter referred to as first, second and third Writ Petitions respectively.

5. In the affidavit filed in support of the first Writ Petition referred to above, the petitioner would submit that the petitioner Association is a registered one and striving hard for the upliftment of SC/ST community for the past 7 years; that the Alagappa University has been formed by an Act of the Government of Tamil Nadu in 1985 and it is receiving maintenance grants and money from UGC under plan schemes; that in Tamil Nadu, the Government is adopting the communal reservation viz., 19% for SC/ST, 50% for B.C. and the remaining is reserved for Open Competition, which is not followed by the Alagappa University; that in the said University, all the vacancies are filled up by open competition, which is violative of the statutes; that on 31-8-1996 the respondent has published an advertisement in the "Employment News" calling for the candidates to fill-up the vacant posts in the Alagappa University for Registrar, Director of Distance Education and Professor of Industrial Chemistry notifying them under "Open Category Competition", thereby, it is clear that the

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University is not following the Government Order regarding the reservation; that the petitioner has sent a representation to the respondent on 4-10-1996 pointing out the non-reservation for Backward Class Community and SC/ST Community, for which there was no reply and hence, the petitioner would come forward to file the above first Writ Petition praying for the relief extracted supra.

6. In the affidavit filed in support of the second Writ Petition referred to above, the petitioner would submit that he has completed P.hd in Chemistry and is working as a Scientist in the Central Electro Chemical Research Institute, Karaikudi; that in response to the advertisement of the University dated 3-8-1996 the petitioner has applied for the post of a Professor in Industrial Chemistry in Alagappa University, Karaikudi; that there are 14 sanctioned posts of Professors, out of which, 12 posts have already been filled by non-SC/ST candidates; that the Secretary to Government of Tamil Nadu, Education Department sent a communication to the Registrar of Alagappa University advising him the need for adhering to reservation roster; that the Selection Committee should consist of a person nominated by the standing committee on Academic affairs from among its members, but without following the statutes, by issuing a circular the Vice-Chancellor of University, which has no Authority to recommend a nominee, get this nomination accepted by the Standing Committee; that the two vacant posts of Professor should only be filled up by SC/ST candidates; that the Vice-Chancellor had hurriedly called for an interview on 25-3-1997 to fill up the post of Professor in Industrial Chemistry, which shows that the interview was done only for empty formality and hence, he would come forward to file the above second Writ Petition praying for the relief extracted supra.

7. In the affidavit filed in support of the third Writ Petition referred to above, the petitioner would submit that he was working as a Reader in the respondents-University; that by an advertisement dated 19-8-1996, the respondents-University called for various posts, in which notification relating to the post of Professor in Industrial Chemistry was made under Open Competition; that as per the service laws relating to the recruitment for the post of Professor, the University has to follow the rules of reservation as in force applicable to the Government servants; that by resolution No.9,dated 2-2-1991 the University has resolved that "due to non availability of good candidates at the level of Professors and Readers, the communal rotation need be followed only at the entry point (lecturers level only)"; that notwithstanding the above resolution, it is not only the respondents-University, but almost in all Government services, where the recruitment is in respect of only one post, rule of reservation is not followed, in tune with the Supreme Court decision on this subject matter; that the first respondent called for the notification dated 19-8-1996 and the petitioner has applied for the post of Professor in Industrial Chemistry under open competition; that the petitioner is yet to be interviewed by a panel of experts in the

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selection committee, which was subsequently approved by the Standing Committee on academic affairs in its meeting held on 7-12-1996; that the Syndicate by its meeting dated 30-12-1996 had approved the panel of the selection committee approved by the Standing Committee; that in spite of calling for the post of Professor in Industrial Chemistry, under Open Category after passing through several stages, the University is trying to go back on its law relating to reservation in its notice dated 19-8-1996, which is not in tune with the settled principles of law relating to reservation; that as on today, no reservation providing for reservation to the post of Professor, which is a single post is made in the Syndicate of the University, which is the appropriate body to make such resolution; that the petitioner apprehending that the Syndicate of the respondents- University may at any time bring in an amendment to the rules of recruitment providing for reservation to the SC/ST, despite the fact that the post being the single post, wherein reservation need not be followed, has come forward to file the above third Writ Petition praying for the relief extracted supra.

8. In the counter affidavit filed by the respondent-University in the first Writ Petition referred to above, it would submit that the University was strictly adhering to the Reservation Policy called communal Roaster System, thereby establishing social justice; that among 101 members of teaching staff, who are in service, there are six members belonging to SC/ST communities , 47 Backward Classes, 10 Most Backward Classes and 30 members belonging to Forward Communities; that recently, out of 17 members of teaching staff recruited, four members belong to SC/ST Communities, 6 Backward Classes, 6 Most Backward Classes and one belongs to Forward Community; that the University has not been prejudicial to any community in adopting the rules of reservation in appointments; that in the advertisement given by the respondent-University, it has categorically published that all the three posts of lectureship shall be filled up from each of the communities of B.C., M.B.C., and SC/ST; that the other posts, namely, Registrar, Director of Distance Education and Professor in Industrial Chemistry Department have only one vacancy in each category; that from the inception of this University since May 1985, the post of Registrar is filled only by deputation and now advertisements have been published to fill up this post; that from the date of creation of the post of Director of Distance Education in this University, the post has not been filled; that one Reader in Department of Corporate Secretaryship is deputed as coordinator to do the duty of the Director of Distance Education; that on retirement of Professor V.G.Kulkarni, who has been appointed on contract basis by Syndicate, now the advertisement is made for the post of Professor and there is only one post; that there is no other Professor in the Department of Industrial Chemistry; that the Professor to be appointed will have to be the Head of the Department; that in view of the fact that there is only one post in the category of Registrar, Director of Distance Education and Professor of

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Industrial Chemistry to be filled, there is no question of adopting the rule of reservation as held by the Supreme Court; that all candidates including SC/ST, B.C., M.B.C. candidates, who come upto the expected level will be considered on merits in open competition and hence, the allegations made by the petitioner are liable to be rejected and would pray to dismiss the first Writ Petition referred to above.

9. In the counter affidavit filed by the respondent-University in the second writ petition referred to above, besides generally denying the averments of the said writ petition, it would further submit that the Alagappa University has a total of 115 of administrative and non-teaching staff among whom 30 members belong to SC/ST community; that according to Statutes 5(2) of the Establishment, "the rules of reservations as in force applicable to Government Service from time to time shall apply in the case of Direct Recruitment"; that the University has strictly adhered to the Reservation Policy called communal roaster system, thereby establishing social justice; that there is only one post of Professor existing in the Department of Industrial Chemistry to be filled up, there is no question of adopting the rule of reservation; that as held by the Supreme Court (AIR 1988 SC 959) and by this Court in various cases, the question of reservation will not arise in the event of there being only one post; that the claim made by the petitioners in the first and second Writ Petition referred to above and the relief sought for is unsustainable, misconceived and is liable to be rejected; that one of the applicants to the post of Professor in Industrial Chemistry Dr. T. Vasudevan filed the third Writ Petition above and he also filed WMP.No.3321 of 1997 praying for ad-interim injunction restraining the University from filling the post of Professor in Industrial Chemistry otherwise than by the recruitment advertisement pending disposal of the writ petition; that as per the provisions of the Alagappa University Act and Statutes, a Selection Committee was duly constituted by the University with three external experts in the specialisation concerned from out of a Panel of Experts suggested by the Standing Committee on Academic Affairs in its 10th Meeting held on 7.12.1996 and later approved by the Syndicate of the University in its Meeting held on 30.12.1996; that as per Section 48(2) of the Alagappa University Act"where there is no Head of the Department, the Selection Committee shall consist of a person nominated by the Standing Committee on Academic Affairs from among its members"; that the meetings of the Standing Committee on Academic Affairs are convened to consider matters like approval of new syllabi, which require in depth deliberations; that the Professor in the Department of Industrial Chemistry is the only post that is existing in the Department; that the person holding this post will be the Head of the Department apart from general administration of the Department; that the Department has two major specialisations viz., Electro Chemistry and Textile Chemistry at PG level; that the Department has an enrollment of about 200 students and hence, the

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allegations made by the petitioner are liable to the rejected and would pray to dismiss the second Writ Petition referred above.

10. In the counter affidavit filed by the respondents -University in the third writ petition referred to above, it would submit that 101 teaching staff are working in the entire 14 departments and two colleges out of whom 6 members belong to SC/ST Community; that the University has a total of 115 of administrative and non-teaching staff and among them 30 members belong to SC/ST Community; that according to the Alagappa University Statute 5(2) of the Establishment, the rules of reservation as in force applicable to Government Service from time to time shall apply in case of direct recruitment; that the respondent-University is fully following the reservation policy of the Government and is scrupulously adhering to the reservation policy called communal roaster system; that the other 3 posts namely the Registrar, Director of Distance Education and Professor in the Department of Industrial Chemistry being only one post in each category (open competition) the question of reservation would not arise; that since there is only one post of Professor existing in the Department of Industrial Chemistry to be filled-up, there is no question of adopting the rule of reservation; that under open competition for the only one existing post, all candidates including SC/ST, BC/MBC, who come up to the expected level will be considered on merits; that as per the Alagappa University Statutes, a Selection Committee was constituted for the selection of Professor in the Department of Industrial Chemistry, which recommended Dr.T.Vasudevan, for the said post and the same was approved by the Syndicate, subject to the result of the second Writ Petition referred to above and hence, would pray to dismiss the third Writ Petition referred above.

11. In the reply affidavit filed by the petitioner in the second Writ Petition referred to above, he would submit that if the respondent University has adhered to the Reservation Policy there should have been 22 SC/ST teachers, but there are only 5 teachers belonging to SC/ST out of 115 in all faculties; that there are 13 Professors and two Principals on the roll of University as on date and none belongs to SC/ST; that the petitioner denies the allegation that the post of Professor in Industrial Chemistry is of a very super specialized in nature and on this ground reservation cannot be denied; that in order to set right the imbalance the post should have been carried forward and reserved for SC; that the respondents have acted as if no reservation is required as there is only one vacancy; that the petitioner alleging that the entire selection itself is illegal would pray to allow the second Writ Petition referred to above.

12. During arguments, the learned counsel appearing on behalf of the petitioner in the second Writ Petition above, would submit that in response to the advertisement of the University dated 3-8-

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1996 the petitioner has applied for the post of a Professor in Industrial Chemistry in Alagappa University, Karaikudi; that out of the 14 sanctioned posts of Professors, there are two vacant posts of Professor, which should only be filled up by SC/ST candidates adhering to reservation roster; that the Vice-Chancellor had hurriedly called for an interview on 25-3-1997 to fill up the post of Professor in Industrial Chemistry, which shows that the interview was done only for empty formality and hence, the petitioner would seek to allow the second Writ Petition referred above.

13. The learned senior counsel appearing on behalf of the petitioner in the third Writ Petition referred above would submit that by an advertisement dated 19-8-1996, the respondent-University called for various posts, in which notification relating to the post of Professor in Industrial Chemistry was made under Open Competition; that as per the service laws relating to the recruitment for the post of Professor, the University has to follow the rules of reservation as it is in force applicable to the Government servants; that in Government services, where the recruitment is in respect of only one post, rule of reservation is not followed falling in tune with the Supreme Court decision rendered in Dr. CHAKRADHAR PASWAN VS. STATE OF BIHAR reported in 1988 S.C. 959; that the petitioner is yet to be interviewed by a panel of experts in the selection committee, which was subsequently approved by the Standing Committee on academic affairs in its meeting held on 7-12-1996; that the Syndicate by its meeting dated 30-12-1996 had approved the panel of the selection committee approved by the Standing Committee; that in spite of calling for the post of Professor in Industrial Chemistry, under Open Category after passing through several stages, the University is trying to go back on its law relating to reservation in its notice dated 19-8-1996, which is not in tune with the settled principles of law relating to reservation; that as on today, no reservation providing for reservation to the post of Professor, which is a single post is made in the Syndicate of the University, which is the appropriate body to make such resolution; that the petitioner apprehending that the Syndicate of the respondents- University may at any time bring in an amendment to the rules of recruitment providing for reservation to the SC/ST, despite the fact that the post being the single post, wherein reservation need not be followed, would pray to allow the third Writ Petition referred above.

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14. The learned senior counsel appearing on behalf of the petitioner in the third Writ Petition above and the learned counsel appearing for the respondents would cite two decisions of the Honourable Apex Court, the first one rendered in Dr. CHAKRADHAR PASWAN VS. STATE OF BIHAR reported in 1988 S.C. 959. Following that judgment, though the Supreme Court in the case of UNION OF INDIA vs. MADHAV [(1997) 2 SCC 332] had struck a different note, the position is now settled because of the Constitution Bench Judgment rendered

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in POST GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH, CHANDIGARH VS. FACULTY ASSOCIATION AND OTHERS reported in AIR 1998 S.C. 1767, wherein, it is held as follows:

> "In a single post cadre, reservation at any point of time on account of rotation of roster is bound to bring about a situation where such a single post in the cadre will be kept reserved exclusively for the members of the backward classes and in total exclusion of the general members of the public. Such total exclusion of general members of the public and cent per cent reservation for the backward classes is not permissible under the constitutional frame work. Until there is plurality of posts in a cadre, the question of reservation will not arise because any attempt of reservation by whatever means and even with device of rotation of roster in a single post cadre is bound to create 100% reservation of which post whenever such reservation is to be implemented..."

The decisions cited by the petitioner in third Writ Petition referred above and the respondents squarely apply to the facts of the present case. Following the second decision, a learned Judge of this Court has passed an order in W.P.Nos.8977 and 8978 of 1998 dated 20.8.1999.

15. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for both, what this Court is able to assess insofar as the first writ petition above is concerned that the respondent Alagappa University is receiving maintenance grants and money from UGC under plan schemes; that it is bound to adopt the communal viz., 19% for SC/ST, 50% for BC and remaining for open competition which the said University is not in the habit of following and all the vacancies have been filled up by open competition which is violative of the status; that the publication of advertisement dated 31.8.1996 in the 'Employment News' to fill up the posts of the Registrar, Director of Distance Education and Professor in Industrial Chemistry notifying the same under 'Open Category Competition' thus without following the government order regarding the reservation and the representation made on the part of the petitioner Sangam dated 4.10.1996 has not been attended to by the said University.

16. So far as the second writ petition above is concerned, the petitioner therein would come forward to state that he is a Ph.D in Chemistry and working as a Scientist in the Central Electro Chemical Research Institute, Karaikudi; that in response to the advertisement of the University dated 3.8.1996, he applied for the post of Professor in Industrial Chemistry in Alagappa University, Karaikudi; that from out of the 14 sanctioned posts of Professors, 12 have already been filled by non SC/ST candidates; that the Government of Tamilnadu has written a letter through its Secretary, advising the

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Registrar of Alagappa University to adhere to the reservation roaster and that the Selection Committee should consist of a person nominated by the Standing Committee on Academic Affairs from among its members, but nevertheless issuing a circular, the Vice Chairman has recommended a nominee and get his nomination accepted by the Standing Committee when the said two vacant posts of Professors should only be filled up by the SC/ST candidates and an eye wash interview was conducted on 25.3.1997.

17. So far as the third writ petition above is concerned, the petitioner working as a Reader in the said University finding that the notification relating to the Post of Professor in Industrial Chemistry as per the advertisement dated 19.8.1996 has been made under open competition without following the reservation as in force and without following the resolution No.9 dated 2.2.1991 of the University wherein it was resolved that due to non-availability of good candidates at the level of Professors and Readers, the communal rotation need be followed only at the entry point (lecturers level only) and since the recruitment is in respect of one post only, the rule of reservation is not followed in view of the Supreme Court decision on this subject and the University, as per its notice dated 19.8.1996 has called for filling up the post of Professor in Industrial Chemistry which is a single post apprehending that the Syndicate of the respondent University may bring in amendment to the rules of recruitment which are providing for reservation to the SC/ST.

18. So far as the first writ petition above is concerned, it is by an association called Ikiya Nadugal Ambedkar Sangam and in the said writ petition, the association has prayed for quashing the impugned advertisement/notification No. APPT/3974/96 of the respondent, published in "Employment News" dated 31-8-1996 and further to direct the respondent to strictly adhere to the Reservation Policy of the Government in the case of SC/ST Candidates for recruitment to all the posts in the respondent University and issue fresh notifications for the vacant posts. This is because the advertisement seeks to appoint for the post of Registrar, the Director of Distance Education and for the post of Professor in Industrial Chemistry Department in the open competition without following the reservation policy and hence the petitioner association has come forward to seek the relief sought for, particularly to quash the said advertisement inviting applications from eligible candidates and for filling up these posts in the open competition.

19. In the second writ petition above, the petitioner, who seems to be of SC/ST category has also applied for the post of Professor in Industrial Chemistry Department in the respondent University and would come forward to say that out of 14 sanctioned posts of Professors, 12 have already been filed up by non SC/ST candidates and in spite of insistence from the government to follow the communal rotation, without following the statute, the University authorities,

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particularly the Vice Chancellor of the respondent University was trying to fill up some one from the open category without following the communal rotation, and therefore, laying emphasis that the two vacant posts of Professors should only be filled up by the candidates from SC/ST, has come forward to file this writ petition. The fear of the petitioner seems to be genuine in the sense that the University authorities, for some reason or other from out of 14 such posts was able to fill up 12 from the forward community and now singling out one from the rest of the two in order to apply the norms of the Supreme Court decision and to give an opportunity for a non SC/SC candidate are trying to play a trick thus depriving his due under the statute, and therefore, he is seeking a direction to fill up two vacant posts of Professors by only SC/ST candidates, has filed this writ petition.

20. So far as the third writ petition above is concerned, it seems that it is filed by a candidate who is not belonging to either SC/ST or backward community and it is his case that for the post of Professor in Industrial Chemistry, since the notification has been made under open competition, he offered his candidature and applied for the same in response to the notification dated 19.8.1996 under open competition. This petitioner's fear is that since as per the service laws, the University has to follow the rules of reservation by resolution No.9 dated 2.2.1991, the University has resolved that due to non-availability of good candidates at the level of Professors and Readers, the communal rotation need be followed only at the entry point that is at the lecturers level meaning thereby 'that the communal rotation need not be followed for filling up the post of Professor for which he is in competition and arguing to the effect that since the recruitment in respect of only one post, the rule of reservation need not be followed in consonance with the decision rendered by the Supreme Court on this subject matter. Now, according to this petitioner, the University is trying to go back on its law relating to reservation in its notice dated 19.8.1996 which is not in tune with the settled principles of law relating to reservation; that the Syndicate of the University is the appropriate body to make such resolutions; that apprehending that the Syndicate may at any time bring in the amendment to the rule of recruitment providing them reservation for SC/ST despite the fact that the post is a single post wherein reservation need not be followed, has come forward to file the writ petition.

21. On the contrary, regarding the first writ petition above, the respondent University would bring it to the notice of the Court the Statistics of appointment of the teaching staff in general in order to show that they have followed the communal rotation and that the University has not been prejudicial to any community in adopting the rule of reservation in appointment and that since for the posts of Registrar, Director of Distance Education and Professor in Industrial Chemistry, there is only one vacancy in each category, and

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so far as the post of Professor in the Department of Industrial Chemistry is concerned, he will have to be the Head of Department and since there is only one post in the said category, there is no question of adopting the rule of reservation and that all candidates have to be considered on merits in the open competition, and therefore, would pray to dismiss the writ petition.

22. Regarding the second writ petition above, the respondent/University would submit the this Court granted interim injunction in favour of the petitioner and the same was later vacated with observation that any appointment will be subject to the result of the writ petition and that thereafter, the University constituting a Selection Committee for the selection of Professor in the Department of Industrial Chemistry calling for the interview of those candidates wherein only three candidates appeared, ultimately, the Selection Committee recommended Dr.T.Vasudevan i.e. the petitioner in the third writ petition above and even the results have been placed before the Syndicate on its meeting held on 26.4.1997, it approved the recommendations, but with the remarks that the appointment of Dr.T.Vasudevan would be subject to the result of the second writ petition above and on such grounds, the respondent University would pray to dismiss the second writ petition above.

23. These averments made by the respondent University would not specifically deal with anything excepting to confirm the counter statement of the first and second writ petition. In the above circumstances, this Court is able to come across also a reply affidavit filed by the second petitioner wherein he would bring out the facts that to the strength of the teachers in the University, there should have been 22 SC/ST teachers, but there are only 5 out of 115; that there are 13 Professors and 2 Principals on the roll of the University and as on date, not a single belongs to SC/ST. Further denying that the post of Industrial Chemistry is a super-speciality in nature, would assail the arguments of the University denying the due on this ground. The petitioner would further plead to the effect that the imbalance created could only be set-right if the post is carried forward and reserved for SC. Further alleging that the entire selection process is itself illegal, the petitioner would pray to allow the second writ petition referred to above.

24. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for all the parties, as stated supra, what comes to be known is that among the above three writ petitions, the first writ petition has been filed by an Association called Ikiya Nadugal Ambedkar Sangam as against the Registrar, Alagappa University, Karaikudi seeking to quash the impugned Advertisement/Notification dated 31.8.1996 and to direct the respondents to strictly adhere to the reservation policy of the Government in the case of SC/ST candidates in recruitment to all posts in the Alagappa University and to issue fresh Notifications

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for the vacant posts. So far as the prayer of this writ petition is concerned, it has been filed in the general interest of the members of the Association bearing in mind the welfare of the SC/ST candidates in the recruitment of all the posts in the Alagappa University. The petitioner's case is that even though there is communal reservation, 19% to the SC/ST and 50% for BC and rest for open competition, all the vacancies are filled up by open competition in the University which is violative of the statutes; that in the impugned publication dated 31.8.1996 calling for the candidates to fill-up the posts mentioned therein, which are numbering four, three categories are notified under open category competition i.e. for the Registrar, Director of Distance Education and the Professor of Industrial Chemistry Department and thus the University has failed to follow the Government Policy regarding reservation.

25. On the part of the respondent University, it would be argued that each of those categories i.e. the Registrar, Director of Distance Education and the Professor of Industrial Chemistry Department, is a 'single post cadre' within the meaning of very many judgments of the Honourable Apex Court, particularly that of AIR 1998 SC 1767 and therefore they have to be filled up only by open competition and no reservation policy would apply to these categories of posts and hence would try to justify its stand.

26. However, on the part of the petitioner, it would further be argued that even though there are very many such posts vacant, in order to bring these posts under the open competition, the respondent University has shown them as 'single post cadres' and unless all the vacancies are filled up, the members belonging to the petitioner Association may not be able to be benefited and they are sidelined and hence the petitioner would not only pray to quash the advertisement/notification but also would seek to issue a direction to the University to fill up the vacancies following the reservation policy regarding all the posts in the University by issuing fresh notification.

27. It needs to be mentioned that no list of the total number of posts of such categories available in the University or the necessity to fill them up immediately has been furnished by either side and therefore, this Court is not in a position to ascertain as to how many posts of such categories are available in the University and whether the University, in order to make use of the Honourable Supreme Court judgment regarding 'single post cadre', is making it appear that only one post has fallen vacant thus technically preventing the SC/ST community candidates from enjoying their communal rotation in the ratio advocated by the Government and the Statutes and accepted by the University.

28. So far as the second writ petition above is concerned, it is by an individual who is working as a Scientist and in response to the

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Advertisement dated 19.8.1996 published in 'University News', he applied for the Post of the Professor of Industrial Chemistry Department. He would submit that as per the service laws relating to the recruitment for the post of Professor, the University has to follow the rules of reservation as in force applicable to the Government servant; that in the interview hurriedly held on 25.3.1997, the University is trying to fill up the said post of Professor of Industrial Chemistry Department without following the communal rotation.

29. So far as both the above writ petitions are concerned, it would be revealed particularly in the reply affidavit of the second writ petitioner (i.e. the petitioner in W.P.No.4203 of 1997) that if the respondent University has adhered to the reservation policy, there could have been 22 SC/ST teachers but there are only five teachers now; that out of 115 candidates in all faculties, there are 13 Professors and two Principals on the role and none belongs to SC/ST category and it is the case of the petitioners that in order to set right the imbalance, the posts should have been carried forward and reserved for SC/ST candidates. A strong case would be put up on the part of the second respondent that such arguments so as to claim the Post of Professor in Industrial Chemistry under the reservation category cannot be put forth since according to the judgment of the Honourable Apex Court, it is a single cadre post and hence no reservation policy would apply to the said category.

30. According to the second petitioner, the respondents have not acted in accordance with the requirements and expectations of the Statute and the Government in calling to fill up the Post as if no reservation policy exists since there is only one vacancy so as to bring it under the fold of the Supreme Court judgment thus to eject the rightful claim of the petitioner in the second writ petition.

31. Quite contrarily, the third writ petitioner, under the cloak of the judgment of the Honourable Apex Court cited supra delivered in AIR 1998 SC 1767 would seek to fill up the said post of the Professor of the Industrial Chemistry Department in the open category. He would also advocate that the subject of Industrial Chemistry is a super speciality one and would also submit that the said post of Professor of Industrial Chemistry Department is not meant for application for communal rotation at all for which no iota of evidence has been placed on the part of the petitioner in the third writ petitioner above and therefore so far as this aspect that the Post of Professor in Industrial Chemistry Department is a super speciality one is concerned, the claim of the petitioner could be dismissed even at this stage as absolutely bereft of any basis or proof and the same is decided accordingly.

32. It could be well understood that the prayer of the first writ petitioner is general in nature aiming at the welfare and well-being of the candidates belonging to SC/ST and backward communities

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and their grievance is generally applicable for filling up all the posts in the University and since according to them, the University is either partial or reluctant in adopting the communal rotation in the appointment of the Posts that arise in the University, it seeks direction to the said effect of adopting the communal rotation very strictly besides quashing the impugned notification calling for candidates to fill up the posts mentioned therein. No mention need be made that it includes the grievance of the second petitioner also, as he is a competitor pertaining to the filling up of the post of the Professor in the Industrial Chemistry Department, which is the third item in the impugned Advertisement.

33. So far as the third writ petition above is concerned, this Court cannot arrive at any conclusion based on the inconsistent particulars placed by the petitioner in this writ petition since this Court is able to see only four communications in the typed set of papers furnished by this petitioner such as the Notification published, the advertisement made and the minutes of the meeting and since this Court is not at all apprised as to how many posts the University has filled up so far regarding the various categories and whether the reservation policy in the past has been strictly observed by the University and why the carry forward policy has not been adopted, such reliefs sought for on the part of the petitioner in the third writ petition above also cannot be complied with particularly regarding the notification of the first respondent in Advertisement No.Appt/3974/96 dated 19.8.1996 published in 'the University News' for the Post of Professor in the Industrial Chemistry Department and to direct the first respondent to complete the process of selection and appoint the petitioner in accordance with the notification of the first respondent. It is relevant to say that all these processes have been completed and the petitioner in the above second writ petition has been appointed to the said post of Professor, Industrial Chemistry Department as it comes to be argued on the part of his counsel and also as averred in the affidavit. However, this Court is not in a position to either ratify the same or justify the manner in which the said petitioner Vasudevan has been appointed regarding which nothing is placed before this Court particularly to find out whether this candidate is head and shoulder superior and better than the other two candidates who attended the interview particularly placing the credentials of the petitioner in the third writ petition above viz. Mr.M.Selvam. Unless the credentials of both these candidates are analysed in a comparative manner no decision could be arrived at and this Court having not been apprised of such details by the University, the Selecting Authority, barely on some stories told about which are also denied strongly by the other side, no such decision could be arrived at as it is sought for on the part of the petitioner.

34. Regarding the first part of the relief found in the relief column of the third writ petition above (W.P.No.1980 of 1997), i.e. to call

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for the records relating to the minutes of the meeting of the respondent University on its 58th meeting of the Syndicate dated 30.12.1996 seeking to cancel the resolution No.9 dated 2.2.1991 and to quash the same, since it is in adherence and in support of the reservation policy, which has been adopted by the University, the respondent University's Syndicate meeting dated 30.12.1996 need not be disturbed and therefore on a overall consideration of all the above three writ petitions on pleadings and arguments and materials placed on record, the only conclusion that could be arrived at by this Court is that in the first writ petition filed by the Association, a direction could be issued to the respondent University to strictly adhere to the reservation policy regarding all the posts, excepting to the 'single cadre posts' and the rest of the two writ petitions and the other relief sought for in the first writ petition above cannot be granted.

In result,

(i) W.P.No.14887 of 1996 is allowed in part and the respondent University is directed to strictly adhere to the reservation policy regarding all the posts, excepting to the 'single cadre posts' within the meaning of the judgment of the Honourable Apex Court reported in AIR 1998 SC 1767. For all other purposes, this writ petition stands dismissed.

(ii) W.P.Nos.4203 of 1997 and 1980 of 1997 do not merit acceptance and become liable only to be dismissed and are dismissed accordingly.

(iii)The petitioner in the second writ petition is at liberty to challenge the appointment of the petitioner in the third writ petition to the post of the Professor, Industrial Chemistry before the appropriate forum since no material has been placed on record as a result of which this Court is not in a position to decide the issue.

However, in the circumstances of the cases, there shall be no order as to costs.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary to the Government
   of Tamil Nadu,
   Education Department
   Fort St. George
   Chennai - 600 009.

2. The Secretary to the Government
   of Tamil Nadu,
   Adi Dravidar & Tribal Welfare
   Department,
   Fort St. George,
   Chennai - 600 009.

3. The Registrar, Alagappa University,
Alagappa Nagar, Karaikudi 623 004.

4. The Vice-Chancellor,
Alagappa University,
Karaikudi

5. The Selection Committee,
[Professor Selection]
Alagappa University, Karaikudi.

Three ccs to Mr.A.Jenasenan, Advocate SR.8083.

One cc to the Govt. Pleader SR.8086.

One cc to Mr.R.Thamaraiselvan, Advocate SR.8125.

One cc to M/s La law, Advocate SR.8196.

WP.Nos. 14887/1996, 4203 & 1980/1997.

SMK [co]

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